MEMORANDUM

TO: David L. Callender, MD, MBA, FACS
   President, UTMB Health

FROM: Kimberly K. Hagara, CPA, CIA, CISA, CRMA
      Associate Vice President, Audit Services

DATE: March 27, 2015

SUBJECT: Employee Relations Audit
          Engagement Number 2015-023

Attached is the final audit report regarding the Employee Relations audit. This audit will be presented at the next Institutional Audit Committee meeting.

Additionally, please find attached Audit Services audit recommendation follow up policy. Each of the recommendations is classified by type at the end of its identifying number: System Priority (SP), Risk Mitigation (R), or Process Improvement (P). As you will note in the policy, the classification of the recommendation determines the frequency of our follow up. All follow up results are reported quarterly to the Institutional Audit Committee.

Thank you for your cooperation and assistance during the course of this review. If you have any questions or comments regarding the audit or the follow-up process, please feel free to contact me at (409) 747-3277.

Attachments

c: Cheryl A. Sadro
   Carolee A. King
   Ronald B. McKinley
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Background
The University of Texas Medical Branch’s (UTMB Health’s) *The Road Ahead – Institutional Vision 2015-2017* lists “People” as one of the four strategic priorities essential to the achievement of its mission of “improving health in Texas and around the world”. The Institution continually strives to create a strong culture of professionalism, teamwork, and respect among its employees as they “work together to work wonders”.

In late 2013, UTMB Health’s President appointed a “Blue Ribbon Panel” to review the institution’s handling of the reassignments of two executives. The Panel perceived its charge to be:
- Review management actions including release of public information in the reassignments of the executive members
- Make recommendations of how to handle these types of issues going forward
- Make recommendations that will assist in managing difficult personnel decisions with transparency

In April 2014, the Panel published a report of its findings including six recommendations to strengthen processes for handling complaints of discrimination or harassment and improve internal and external communications. (See Appendix A) Institutional leadership developed an action plan addressing these recommendations to help mitigate reputational and compliance risks associated with employee engagement and the work environment.

Audit Objectives
The objective of this audit is to assess the implementation status of the Blue Ribbon Panel’s recommendations and planned actions by the institution.

Scope of Work and Methodology
The scope of this audit included activities taken from May 2014 to present to address the Panel’s report. Our audit methodology included interviews of key personnel and review of relevant documentation. The audit was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* as promulgated by the Institute of Internal Auditors.

Audit Results
Based on the audit procedures performed, it appears UTMB Health has either fully implemented or is in the process of implementing appropriate actions to address the reported recommendations. The section titles below represent the Panel’s six recommendations and UTMB Health’s related response.

Release Blue Ribbon Panel Report
“UTMB should release this Committee’s written findings and recommendations.”

The Blue Ribbon Panel’s findings and recommendations were intended to be released to UTMB Health employees and the public. Audit Services verified the President communicated the report’s findings and recommendations to institutional employees in May 2014. Additionally,
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the findings and recommendations were communicated to the public via newspaper interviews during this same time period.

**Improve Internal and External Communications**

"UTMB should make a concerted effort to improve its internal and external communications. There appears to be a perception that complaints are received, ignored and not investigated, which the Committee did not find to be true in these two cases. The results of investigations should be communicated to employees and the public to the extent allowed by law and privacy considerations. The employees should be made aware that as a check and balance, UT System requires that all allegations of sexual misconduct should be reported by UTMB Office of Institutional Compliance to the UT System Office of General Counsel and updates are provided until the investigation is concluded."

Prior to the Panel’s review, the Employee Relations division of the Office of Human Resources (HR) investigated all employee relation type complaints. After the Panel’s report, the institution created the Department of Internal Investigations (DII) reporting to the Senior Vice President and General Counsel to share investigative responsibilities with Employee Relations. The DII investigates disputes or issues considered legal in nature relating to sexual harassment, Title IX, Fair Labor Standards Act, Equal Employment Opportunity, retaliation, and discrimination; while Employee Relations handling issues involving institutional policies and procedures, personality disputes among employees, and employee performance problems. Audit Services interviews with the two investigative groups indicated they have been working together to ensure a standardized investigative process with associated forms and reports. Additionally, the groups have established investigative timelines and mechanisms for reporting results and have updated the HR website to reflect the new processes.

Additionally, during Audit Services review of the creation and retention of investigative documentation that the Employee Relations files were maintained on an unrestricted Human Resources shared drive accessible by other HR employees. After bringing this control weakness to attention of the Director of HR Employee Relations, immediate steps were taken to restrict access. Audit Services noted the Department of Internal Investigations has established appropriate controls and access restrictions over the files created in the course of their investigations.

**Recommendation 2015-023-01-R:**
The Employee Relations Director should develop and implement a process for granting access to the Employee Relations folders. Additionally, access should be monitored on a periodic basis to ensure the files remain appropriately secured.

**Management’s Response:**
Trusted Requestor for Human Resources has been informed that access to Employee Relations folders must have written authorization from Director of Employee Relations or VP Human Resources. Written procedure is being developed.

**Implementation Date:** Procedure change already in place. Written document to be completed by 4/1/2015.
Expand Training

"The Committee concluded that these two instances were examples of a lack of professionalism on the part of the individuals involved rather than indicative of a culture of sexual harassment throughout the Institution. Consequently, UTMB should offer additional training to employees and executives on dealing with situations of sexual harassment and lack of professionalism and how to report same. This training should be targeted and mandatory. Executives and upper management should receive additional training beyond that provided to non-executive employees."

Audit Services verified that new employee orientation training was expanded to include additional material concerning protected categories, prohibited activities of discrimination, retaliation, and harassment as well as expanding resource information of whom to contact for such a situation. Additionally, the Institution continues to expand ongoing training and forums emphasizing professionalism, both of which are available to all employees including executives and upper management.

Audit Services tested a sample of 50 employees for compliance with annual general training and new employee orientation (NEO) training requirements, noting one executive did not complete NEO training within the appropriate time period after their hire date. Additional research indicated this was the result of the employee inadvertently selecting the incorrect “employee type” in the online training system which resulted in the employee bypassing NEO.

**Recommendation 2015-023-02-R:**
The Vice President, Human Resources and Employee Services should ensure a process is in place for monitoring the completion of NEO training.

**Management’s Response:**
Employee Relations will partner with Recruitment, Talent and Organization Development, to develop a process for regular monitoring.

**Implementation Date:** 4/30/2015

**Recommendation 2015-023-03-R:**
The Vice President, Human Resources and Employee Services should explore the feasibility of implementing a “hard stop” within the online training system to prevent incorrect selection of training paths.

**Management’s Response:**
The Talent and Organization Development Division of HR is investigating options in eLearning module to ensure that correct training paths are assigned. When this investigation is complete, a plan for implementation will be developed.

**Implementation Date:** Implementation plan developed by May 1, 2015
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Revise Institutional Policies
"Sexual Harassment and Misconduct Policy should be revised to consider the following:
a. The policy should be revised to reflect the situations where HR is unable to conduct the investigation (e.g., when HR or its reporting structure has been implicated). Included in the policy should be information regarding the various checks and balances, including the fact that complaints of sexual misconduct must be reported to the UT System Office of General Counsel and updates are provided until the investigation is concluded.
b. Employees should be encouraged to file complaints of sexual harassment or discrimination within 30 days as a means of preventing ongoing misconduct and facilitating a full and fair investigation."

Audit Services interviews indicated UTMB Health's policies have been appropriately revised to reflect current processes for filing and investigating employee complaints. Additionally, the Director, Department of Internal Investigations, is assisting with UT System's initiative to update its policies related to sexual harassment and misconduct. It is anticipated that additional updates to UTMB Health's policies will occur at the completion of the UT System initiative.

PRI Responses
"The Committee recommends that in response to a public request for information regarding sexual misconduct claims, the following response should be considered: It is UTMB's policy to investigate all complaints of discrimination or harassment promptly. UTMB will attempt to protect the confidentiality and privacy of all employees and to preserve the integrity of the investigation. UTMB will comply with all requests for information in accord with applicable regulations from the UT System and state law. In addition, pursuant to the policy of the UT System, all sexual misconduct complaints must be reported by UTMB's Office of Institutional Compliance to the Office of General Counsel of the UT System."

Audit Services interviews with representatives from the Offices of Legal Affairs and Media Relations departments indicated there has not been an occasion since the distribution of the Panel's report for a response to a public request for information regarding sexual misconduct claims. However, a process is in place for responding to requests of this nature. All appropriate individuals are notified of the request and discussions ensue resulting in an agreed upon statement for issuance to the requesting party.

Job Titles/Descriptions
"Positions should be descriptive of the responsibilities and expectations of the role. Terms such as “Special Advisor to the President” and similar generic terms should not be used."

Audit Services review of all current institutional job titles identified one title that could be considered a title meeting a generic term of "special advisor". The President's spouse has been designated a "Special Assistant to the President". This title is allowable under UT System Policy (UTS) 120, Spousal Travel Policy, when designated by the UT System Chancellor. A request for approval to use this title has been submitted to UT System for approval.
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Conclusion
Overall, UTMB Health has taken appropriate action to address the findings and recommendations of the Blue Ribbon Panel. Audit Services noted opportunities remain to document the process of adding employees to active directory user groups; periodically review access to sensitive documentation; and, monitoring of training at the executive level.

We greatly appreciate the assistance provided by Human Resources and the Office of Legal and Regulatory Affairs staff and hope that the information presented in our report is beneficial.

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